



General Assembly

January Session, 2003

Amendment

LCO No. 6018

SB0049606018SD0

Offered by:

SEN. COLAPIETRO, 31st Dist.

REP. FOX, 144th Dist.

REP. BERGER, 73rd Dist.

To: Subst. Senate Bill No. 496

File No. 223

Cal. No. 149

***"AN ACT CONCERNING MINOR REVISIONS TO THE NEW HOME
CONSTRUCTION ACT, THE HOME IMPROVEMENT CONTRACTOR
ACT AND THE HOME SOLICITATION SALES ACT."***

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subdivision (3) of section 42-158i of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective*
5 *January 1, 2004*):

6 (3) "Retainage" means a sum withheld from progress payments to
7 the contractor or subcontractor, otherwise payable to a contractor or
8 subcontractor by an owner conditioned on substantial or final
9 completion of all work in accordance with the terms of a written or
10 verbal construction contract, but does not include any sum withheld
11 due to the contractor's or subcontractor's failure to comply with
12 construction plans and specifications.

13 Sec. 502. (NEW) (*Effective January 1, 2004*) An escrow account shall
14 be established for all retainage, subject to the following:

15 (a) An escrow account shall be established in state or national banks
16 domiciled in this state or in savings and loan associations domiciled in
17 this state.

18 (b) The owner shall provide a monthly report to the contractor as to
19 the value of the retainage being held in the escrow account and any
20 additions to or payments from the escrow account. Upon request by a
21 subcontractor, the contractor shall make such monthly report available
22 for review by the subcontractor. Withdrawals from the escrow account
23 shall be made only subject to approval of the owner.

24 (c) If the owner has entered into more than one construction
25 contract with the same contractor requiring the maintenance of escrow
26 accounts, the owner may elect to combine the amounts held as
27 retainage under each contract into one or more escrow accounts or
28 may establish a separate escrow account for each contract.

29 (d) The escrow account shall be terminated upon substantial or final
30 completion of all work in accordance with the terms of the
31 construction contract and full payment to the contractor.

32 (e) All fees and expenses related to maintaining the escrow account
33 shall be paid by the owner.

34 (f) The form and provisions of the escrow account shall be included
35 in all solicitations for construction services and shall be provided to the
36 contractor and subcontractor prior to entering into a contract with the
37 owner. Upon request by a subcontractor, the contractor shall make
38 such form and provisions available for review by the subcontractor.
39 Failure to comply with the provisions of this subsection shall not give
40 rise to a defense to the enforcement of a contract.

41 (g) If an owner fails to deposit retainage that is withheld or to
42 release retainage as required by this act, the owner shall pay to the

43 contractor an additional one and one-half per cent of the amount not
44 deposited or released for each month or fraction of a month, until the
45 retainage amount is paid in full.

46 (h) An owner may accept securities in lieu of retainage from a
47 contractor and a contractor may accept securities in lieu of retainage
48 from a subcontractor.

49 Sec. 503. (NEW) (*Effective January 1, 2004*) The provisions of section
50 502 of this act do not apply to construction contracts for residential
51 property containing four or fewer dwelling units or to construction
52 contracts of less than twenty-five thousand dollars total value or to
53 construction contracts relating to any public building or public work of
54 the state or a municipality or other political subdivision of the state.

55 Sec. 504. Section 42-158k of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective January 1, 2004*):

57 No construction contract may provide for any retainage in an
58 amount that exceeds seven and one-half per cent of the estimated
59 amount of a progress payment for the life of the construction project.
60 [This section shall not be construed to require that a construction
61 contract contain a retainage provision.]

62 Sec. 505. (NEW) (*Effective January 1, 2004*) In an action to enforce the
63 provisions of section 502 of this act or section 42-158m or 42-158k of
64 the general statutes, a court may award court costs and reasonable
65 attorney's fees to the prevailing party."